

CHARLES E. ROBERTS.

[To accompany Bill H. R. No. 733.]

MAY 18, 1860.

Mr. BARRETT, from the Committee on Public Lands, made the following

REPORT.

The Committee on Public Lands, to whom was referred the memorial of the house of representatives and council of Washington Territory, setting forth the claim of Charles E. Roberts, have instructed me to report a bill in accordance with the request of the memorialists, and recommend its passage.

The memorial, and the accompanying letter from the Commissioner of the General Land Office, fully explain the nature of the claim, and they are hereby adopted as part of this report.

MEMORIAL IN BEHALF OF CHARLES E. ROBERTS, A SETTLER ON THE PUBLIC LANDS IN WHATCOM COUNTY, W. T.

To the Senate and House of Representatives of the United States in Congress assembled:

Your memorialists, the legislative assembly of the Territory of Washington, would respectfully represent, that Charles E. Roberts, a citizen of Washington Territory, in accordance with the provisions of the 5th section of the act of Congress approved September 27, 1850, entitled "An act creating the office of surveyor general of the public lands in Oregon," &c., on the 15th of May, 1854, entered upon and cultivated a piece of land containing 320 acres, in Whatcom county, upon which he resided with his wife and family, from that time until the spring of 1856, when he was dispossessed of the same by its being selected as a military reservation, for the establishment of Fort Bel-lingham, which post has since been built; that an assessment was made of simply his improvements, without any regard to the value of the land itself—first, of \$1,300, which was subsequently reduced, for some unaccountable reason, to \$800; that although nearly two years have now elapsed, during which time he has been divested of his claim and of the benefits and profits to be derived from the cultivation of the same, neither of said sums have been paid or even tendered to

him, and that as the aforesaid act, under which he took said claim, expired on December 1, 1855, prior to his dispossession, he has been debarred from any advantage under it, and by not being paid for what he claims as his lawful property, has been prevented through poverty, from procuring a new home for himself and family.

Your memorialists would respectfully inquire whether, when a settler, under the provisions and by the solicitations of a law of the United States, has plunged through the primitive forest, located himself upon the extreme verge of civilization, amidst wily savages, and devoted himself to subduing the primeval soil for years, he has not attained under the law a right to the soil itself, of which he can be divested only by his own acts, and whether that can be considered an equitable construction which allows a military officer to deprive him of these rights, acquired by early hardships, prior settlement, and superiority of judgment and discrimination; for his claim must possess advantages, otherwise it would not be selected in preference to the adjoining unoccupied lands.

We would therefore respectfully request that the said Charles E. Roberts be so far confirmed in his claim, that if the same be necessary for a reservation, in the ascertaining of the value thereof, the actual value of the land as well as the improvements be taken into consideration, and that the same be speedily settled, and he receive the payment therefor.

Passed house of representatives, February 4, 1858.

J. S. M. VANCLEVE,
Speaker of House of Representatives.

Passed council, February 2, 1858.

C. C. PAGETT,
President of the Council.

A true copy.

Attest:

C. H. MARON,
Secretary of the Territory.

QUARTERMASTER GENERAL'S OFFICE,
Washington, March 20, 1860.

SIR: The enclosed papers relative to the claim of C. E. Roberts for land now occupied as the site of Fort Bellingham are herewith returned with the following report:

The claim of C. E. Roberts for the value of the site of Fort Bellingham, and for improvements thereon, was first presented here, through headquarters department of the Pacific, on the 6th February, 1858.

On the 10th April the subject was submitted to the Secretary of War with an endorsement, of which the following is a copy:

"If troops be continued at Bellingham Bay the position occupied by the garrison is necessary. The papers herewith show that it was

occupied as early as 1854 by the claimant ; of course his improvements were made before it had been selected for a military site, and Mr. Roberts was in actual possession of it when it was occupied. Were the claim merely for the improvements on the land, it could be paid from the appropriation for barracks and quarters ; but it is for the land as well as the improvements. Now, the War Department cannot purchase land without the authority of an act of Congress, and a special appropriation to pay for it. The question is one arising under the 9th section of the donation act, approved the 27th of September, 1850, and is, whether Mr. Charles E. Roberts is entitled to compensation for the land on which the post at Bellingham Bay is situated ? Should the decision be in favor of the claim, I recommend that application be made to Congress for an appropriation to pay."

On the 5th June, 1858, the claim was returned here through the Adjutant General's office, with an endorsement of the Secretary of War, allowing the \$800, the amount claimed for improvements ; and on the 10th of the same month the account and papers thus endorsed were sent to Col. Sword's department, quartermaster general at San Francisco, for payment.

Respectfully submitted by your obedient servant,

TH. S. JESUP,
Quartermaster General.

Hon. J. B. FLOYD,
Secretary of War.

